



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

CORAM

THE HONOURABLE MR. JUSTICE **C.V.KARTHIKEYAN**

Crl.M.P.No.639 of 2023
in Crl.O.PNo.24254 of 2023

Shiny Mathew Vettikotu

... Petitioner/Defacto Complainant

Vs.

1.The State rep. by
The Inspector of Police,
J-12, Kanathur Police Station,
Central Crime Branch,
Tambaram, Chennai.
(Crime No.495 of 2023)

2.Sunil Silva @ Sunil Mathew Silva

... Respondents

Prayer: Criminal Original Petition filed under Section 439(2) Cr.P.C. to cancel the anticipatory bail granted to the 2nd respondent/accused in Crl.O.P.No.24254 of 2023 dated 11.12.2023.

For Petitioner

: Mr.M.Mohammed Rafi

For Respondents

For R1

: Mr.R.Vinothraja

Government Advocate (Crl. Side)

For R2

: Mr.S.Ashok Kumar

Senior Counsel

for Mr.A.Sasidaran



ORDER

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This petition has been filed seeking to cancel the anticipatory bail granted to the 2nd respondent/accused in order dated 11.12.2023 in CrI.O.P.No.24254 of 2023 by this Court.

2.The defacto complainant, has filed the present application. In the order granting anticipatory bail, it had been noted as follows:

" A Memorandum of Understanding had been entered into, with respect to the assets of the Partnership Firm. It is further stated that that under that guise, a sum of Rs.5/- crores had been transferred by the petitioner to an allied business started by him as a sole Proprietorship firm and stock of goods also been transferred."

3.The learned counsel for the petitioner raised a grievance that though, he had filed an application seeking to intervene at the time of hearing of the anticipatory bail application, the said application was not brought before this Court and the name of the counsel was also not printed in the cause list and therefore, he was not heard. But, to be fair and with an extreme fairness, the learned counsel also stated that it is not the ground on which the anticipatory bail is now sought to be cancelled.



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4. It is pointed out by the learned Government Advocate (Crl. Side) for the 1st respondent that investigation had been completed and final report has now been filed before the jurisdictional Court. Therefore, the parties will now have to graze the witness box and speak up for themselves and their oral evidence will have to be tested during the course of cross-examination. Every allegation will now be tested in manner known to law.

5. The learned counsel is aggrieved by the observation referred supra. It is clarified that every statement made would not indicate that the statement made in the order granting anticipatory bail is proved. Independently, the learned Judicial Magistrate I, Alandur, must determine the allegations only on the basis of the matters before the Court which would indicate the documents presented by the prosecution and the oral evidence adduced by the witnesses.

6. It is therefore clarified that the statement that the stock of goods had been transferred to the defacto complainant is a statement of an allegation in dispute and the averment/allegation will have to be independently established during the course of trial.



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7. The learned Senior Counsel appears for the 2nd respondent and the order had been dictated in the presence of the learned Senior Counsel.

8. No further orders are required since that observation had been clarified. Accordingly, this Criminal Miscellaneous Petition is disposed of.

20.03.2024

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Index : Yes/No

Internet : Yes

Speaking/non speaking order

To

1. The Inspector of Police,
J-12, Kanathur Police Station,
Central Crime Branch,
Tambaram, Chennai.
2. The Judicial Magistrate I, Alandur.
3. The Public Prosecutor,
High Court, Madras.



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C.V.KARTHIKEYAN, J.

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Crl.O.P.No.6640 of 2024

20.03.2024